

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

VIET ANH MAI,)	
)	
Plaintiff,)	Case No. 05-1591-KI
)	
vs.)	OPINION AND ORDER
)	
TINH MUSIC ENTERTAINMENT, INC.,)	
a California Corporation,)	
)	
Defendant.)	

Lan D. Nguyen
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Portland, Oregon 97213

Attorney for Plaintiff

KING, Judge:

Plaintiff Viet Anh Mai has submitted a proposed form of judgment following this Court's entry of an order of default against defendant Tinh Music Entertainment, Inc. Plaintiff seeks statutory damages of \$100,000, and attorney's fees and costs of \$7,695, for a total of \$107,695, with interest of ten percent (10%) from the date of the judgment. Plaintiff also seeks to enjoin defendant from further infringing on plaintiff's copyright. Finally, plaintiff requests that the Court order the impoundment of video and audio recordings, and order that such materials be destroyed under a Writ of Destruction pursuant to 17 U.S.C. § 503.

Pursuant to 17 U.S.C. § 504, this Court may award either actual damages or statutory damages. At the election of plaintiff, I award statutory damages. 17 U.S.C. § 504(c)(1) permits the awarding of statutory damages "in a sum of not less than \$750 or more than \$30,000 as the court considers just." Alternatively, "where the copyright owner sustains the burden of proving, and the court finds, that infringement was committed willfully, the court in its discretion may increase the award of statutory damages to a sum of not more than \$150,000." 17 U.S.C. § 504(c)(2).

Plaintiff appears to be seeking statutory damages for willful infringement as he seeks a judgment of \$100,000. However, plaintiff has not made a showing that the infringement was committed willfully. Furthermore, plaintiff has not provided any argument to support an award of damages at the high end of the statutory allowance for non-willful infringement, and his request for interest at ten percent is contrary to 28 U.S.C. § 1961. Finally, pursuant to Local Rules 54.1 and 54.2, plaintiff must submit a cost bill and a motion for attorney fees in order for

this Court to consider plaintiff's request. Accordingly, this Court declines to award damages in the amount plaintiff requests.

IT IS SO ORDERED.

Dated this 28th day of August, 2006.

/s/ Garr M. King
Garr M. King
United States District Judge